IN THE HIGH COURT OF JUDIATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.10094 OF 2004

Prabhakar P.Jadhav .. Petitioner.
Vs.
Sunil B. Jadhav .. Respondents.

Mr.G.S.Godbole for the petitioner.

CORAM : D.B.BHOSALE, J.

DATED : 22ND DECEMBER, 2004

P.C.:

. This petition is directed against the order passed by the trial court by which the application filed by the petitioner for setting aside "No W.S." order has been rejected relying on the judgment of this court in **Iridium India Telecom Ltd. Vs. Motorola INC and Anr. 2004 (1) Maharashtra Law Journal 532**. It is clear that the judgment of this court in **Shailaja A.Sawant Vs. Sayajirao Ganpatrao Patil 2004(2) Maharashtra Law Journal 419** which makes reference to the judgment in **Iridium India Telecom Ltd.** (supra) was not considered by the learned Judge. The judgment in **Shailaja Sawant** (supra) has been upheld by the Division Bench of this court in **Chintaman Sukhdeo Kaklij and Ors. Vs. Shivaji Bhausaheb Gadhe and Others Writ Petition No.2847 of 2004 dated 12/13.8.2004**.

Keeping that in view, in my opinion, the

appropriate course would be to direct the learned Judge to consider application Exhibit-16 dated 16.3.2004 afresh in which the order dated 11.6.2004 has been passed in the light of the law laid down by the Division Bench of this court in **Chintaman Sukhdeo Kaklij and Ors.** (supra). Hence the following order:

. The trial court to consider application - Exhibit-16 afresh after giving an opportunity of being heard to both the sides in the light of law laid down by this court in the aforestated judgments. In view of this the impugned order dated 11.6.2004 renders ineffective.

. The writ petition is disposed of.

(D.B.Bhosale, J.)